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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,745	02/16/2001	Robert E. Zack	FREIT-005A	5531

7663 7590 09/28/2004

STETINA BRUNDA GARRED & BRUCKER
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ALISO VIEJO, CA 92656

EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,745

Applicant(s)

ZACK ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes et al. in view of Shaw (6,568,596) and Gelbman (6,753,830).

Hughes et al. shows all of the limitations of the claims except for specifying generating a re-order and using an external communication device/global computer network.

Hughes et al. shows, figure 1, methods and apparatus for tracking and displaying objects. The system has a central computer 4 (controller/PC) and a location processor 8 (transponder communications device). Column 6 shows all items in a particular area, which are potentially of interest to the user, are tagged with a transponder 14 and linked with a corresponding data element from a database. The 3DPOS system can be in operation for some given area or areas in each retail outlet, consisting of an entire floor, a department on a floor, or a storage or warehousing region, for instance. The presence of walls or barriers can adversely affect the operation of the system, particularly the ability to accurately determine the location of tags, because radio waves are severely attenuated and distorted by these obstructions. To avoid these difficulties, in one embodiment of the present invention, independent receiver array sets (multiple

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boundaries) are used in each room or area of interest and each room or area is polled sequentially or independently. Bar-code technology can be used to forward each transponder ID number to the central processor, and by printing the bar-code of the transponder's ID number onto each transponder, the entries can be easily added and deleted. When an item is removed from the surveillance area 12 (e.g., because item was permanently removed or sold) (purchase status), its ID number is removed from the active list, and it will no longer be polled to determine its location. Column 9, lines 65-67, shows a restricted area may be defined near an exit at a retail store or warehouse so that personnel can be notified (generate an alert) for instances where tagged objects may be improperly removed.

Shaw teaches (column 1, lines 20-22, and column 2, lines 31-33) an XML based barcode scanner. It is an object of the invention to convert bar code data into data that is easily published on the Internet (external communication device/global computer network) or used by e-commerce applications in order to provide improved communications.

Based on the teaching of Shaw, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the bar code data of Hughes et al. into the XML format of Shaw, thus enabling the use of global computer network in order to provide improved communications.

Gelbman teaches a smart electronic label employing electronic ink. The invention provides for smart and dumb implementations of a stand-alone, remotely updateable, remotely alterable, resilient and flexible electronic display, label tag or strip

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device of various sizes and shapes. Column 4, lines 41-42 teach that the device can be employed to permanently or temporarily attach the electronic label to the item 12.

Column 5, line 60 to column 6, lines 9, teaches a list of different information and uses for the tag and its storage element 28. Included in the list of information and uses is a stocking number reorder number and security and anti-counterfeit software. One of the benefits of this tag is to take advantage of a new capacity to provide better customer service and more efficient stock management.

Based on the teaching of Gelman, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the transponder of Hughes et al. and make use of its increased capabilities, including generating re-orders, in order to provide better customer service and more efficient stock management.

Response to Arguments

2. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

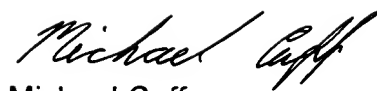
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9/22/04
Michael Cuff
September 22, 2004